A SOCIO LEGAL STUDY REGARDING PROTECTIVE LAWS FOR STREET VENDORS

SHORT SYNOPSIS

Submitted in partial fulfillment of the requirement of the degree of

DOCTOR OF PHILOSOPHY

to

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MANAV RACHNA
vidyanatariksha
MANAV RACHNA UNIVERSITY
(FORMERLY MANAV RACHNA COLLEGE OF ENGINEERING
NAAC ACCREDITED 'A' GRADE INSTITUTION)
Declared as State Private University under section 2f of the UGC act, 1956

Year 2020

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DECLARATION BY THE SCHOLAR

I hereby declare that the short synopsis "A socio legal study regarding protective laws for street vendors" being submitted in partial fulfillment of the requirement for the degree of Doctor of Philosophy in department of Law under School of Law of Manav Rachna University, Faridabad during the academic year 2019-2020.

It is a bona-fide record of original work carried out under the supervision of Dr. Somdutt Bhardwaj (supervisor) and Dr. Tarundeep Kaur (co-supervisor) and has not been submitted in full or part to any other university or institute for degree or diploma. Further, it is certified that short synopsis is within the plagiarism limit and copy of the same is attached as per University norms.

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ABSTRACT

KEY WORDS:
Street Vendors, Livelihood, Equality, Constitution, Street Vendors Act, City Management, inclusive growth, self reliance, self sustainability, Egalitarianism

Around 70 years ago on the eve of India's independence the first Prime Minister of India, Pandit Jawaharlal Nehru in his maiden speech "***Tryst with destiny***" stated that, ***"At the stroke of the midnight hour, when the world sleeps, India will awake to life and freedom."***

The pledge which was taken 70 years ago has not been redeemed till today because the ideals and aspirations of our forefathers in the form of Justice, Liberty, Equality and Fraternity which are the pillars of our Constitution has not been achieved in true sense as the large section of the society is still being deprived of social, and economic freedom. To ascertain these values framers of our Constitution duly emphasized this fact in Part III of our Constitution when they focused over social, political and economic equality under various articles of the constitution. Similarly, the government of India also has time and again announced various schemes for the upliftment of the poor and downtrodden people so that the gap between the have and have not's can be minimized. But the irony is that the pace of our social, political and economic reforms could not match with the challenges which kept on erupting from time and again in the life of marginalized sections leading to more and more hatred among the various sections of the society. As a country we have seen more than fourteen five - years plans to address the long pending issues of poverty and starvation, but still the problem persist and we would say that it has been magnified over a period of time. The reason for all these factors is that there has been a huge gap between the aspiration of our freedom fighters and the grass root level problems. So, now the question arises what were we doing for the last 70 years?

This question comes into the mind of every Indian citizen whenever there is an Independence Day speech by the Prime Minister being delivered every year from the podium of historical monument of Lal Quila. The answer to this question is very simple, that we were hitting the bullet at the wrong place. Because when we got freedom, India was largely an agricultural economy engaging majority of its population under agricultural sector but with the exponential

growth in our population over a period of time the land holding capacity got minimized leading to natural diversion of these landless people to other avenues of occupation. These landless laborers or peasants started staring with the hopeful eyes at the so called “Islands of Prosperity” which were new upcoming towns and cities due to rapid industrialization and urbanization. Therefore, when all the means of survival of these people got exhausted at their native place, they got attracted towards the upcoming cites in the hope of livelihood and found themselves in the new role of **STREET VENDOR.**

CHAPTER- I

INTRODUCTION

"A Street Vendor means a person engaged in vending of articles, goods, wares, food items or merchandise of everyday use or offering services to the general public, in a street, lane, side walk, footpath, pavement, public park or any other public place or private area, from a temporary built up structure or by moving from place to place and includes hawker, peddle, squatter and all other synonymous terms which may be local or region specific; and the words "street vending" which their grammatical variation and cognate expressions, shall be construed accordingly [1]." Street Vending is one of the world's oldest professions. Since time immemorial this profession has influenced the society in an inevitable manner. The street vendors are integral part of every society irrespective of how developed or underdeveloped the nation is. As the social structure changed with changing time, the profession of street vending also changed. Earlier there was barter system in street vending which was gradually replaced by monetary exchange.

With this objective in mind every nation according to its demand has enacted or drafted policies and rules regulating the functioning of the street vendors. Likewise in the year 2014 India has passed or enacted a law exclusively for the street vendors known as - **THE STREET VENDORS (PROTECTION OF LIVELIHOOD AND REGULATION OF STREET VENDING) ACT, 2014**. This act talks about the rights and privileges of the street vendors given by the Government of India. In the whole world India is the only country which has an exclusively act for the street vendors.

In today's world wherever we go, we find people selling their products on the roads and streets irrespective of any area and any nation we travel. The only difference we can see is that in the developed countries their number is less whereas in developing countries they are numerous in nature. When we talk about the street vendors in context of India it has social, economic, cultural and political implications. In the last 20 years the Indian cities and towns have gone through various changes in their town planning and structure so that the influx of rural people into cities can be managed in a systematic manner, keeping in mind the livelihoods of these poor people.

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1. Definition of street vendors as per Section-2(l) of The Street Vendors (Protection of Livelihood and Regulation of Street Vending) Act, 2014

Since India is going through unemployment crisis with grave situation of extreme poverty in villages, these people come to urban areas with a hope of earning their basic survival needs.

However, these phenomenon of influx into cities from various directions has led to mismanagement in the cities due to overcrowding and have brought the cities on the verge of population explosion. They have led to overburdening of cities resources creating a situation of chaos all around. But the government cannot turn away their faces when it has to work for public interest.

The influx of the street vendors from rural areas to urban areas in search of earning a livelihood has increased rapidly in the recent past due to many reasons. The towns and cities are getting over populated and this influx is adding up to it more. The biggest challenge is to accommodate all of them in a proper and systematic way so that it's not a cause of concern and problem anyone in such a short span of time.

These street vendors are quite large in their population in almost all the cities and towns of India. They constitute an integral part of our economy and the social structure. Therefore, they are considered as an effective part of the society. They act as a huge vote banks for various political parties for the elections. These street vendors are unaware of their rights and privileges and hence they easily fall prey for the false promises and commitments made by these political leaders for their up-liftments. They are usually unaware of the fact that they are being used by these political parties for their own gain.

The nature of street vending has seen tremendous changes from ancient age to contemporary era. As we are aware of the fact that Indian Society was riddled with religion and caste structure and there was no freedom to choose any occupation. The reason being, the occupation or the profession got decided at the time of birth only because of the fact that the caste and profession are deeply inter woven into each other. But fortunately with rapid industrialization and urbanization the street vendors who were considered as low caste or outcaste in their native places got an opportunity to wipe out their old identities of the native social structure and attained freedom to acquire any occupation at new places because the social structure in the mega cities is more heterogeneous and more based on occupation rather than caste and religion.

With advent of this new era the economic factor involved in street vending has also changed. Due to over population, illiteracy and many more problems in villages, migration of villagers to towns and cities have resulted into taking up street vending as a new profession or horizon for these people to earn their livelihood. This new change has both positive as well as negative effects. The positive effects include employment generation, door to door step delivery at a very reasonable rate, promotion of craftsmanship or handicraft etc. While negative effects include mismanagement of their vending activities, encroachment of government lands, it also leads to many crimes like bribery, theft and crimes against women and children. The negative effect of street vending also includes haphazard urbanization which poses a threat or obstacle for the smart cities planning and execution.

1.1 RATIONALE / RELEVANCE OF THE STUDY:

The proposed research topic is about the relevance and importance of the implementation of the street vending act. The street vendors are a very integral part of every nation and every society. The services provided by them makes the lives of thousands of people very easy and convenient. They are the most needed ones yet the most hated ones. Society never backs out to take their door to door services, however the society also never backs them when the support is needed. Hence, this street vendors act when implemented properly will not only ensure the street vendors rights and privileges but will also add up to the economy of the country. The implementation of this act means there will be proper vending zones and the record of these street vendors. This will ensure that the activity of street vending will get a new face and the problems such as encroachment of the government or vacant land, disruption of traffic, littering of the areas and crime rates will be controlled. Thsis will lead to the beautification of the cities and the target of making smart cities will be achieved without anyone sacrifice and loss. This will certainly mean sustainable development. The street vendors will get to carry out their profession with dignity and pride. They will no longer be invisible lot of the society who are seen only as a vote bank and nothing more or nothing less. Moreover, these unorganized sectors not being considered as the legal entity of the society and the income they generate is not included in the GDP (Gross Domestic Product) which is actually a big loss as more than 82% of workforce [2] in India is

2. The unorganized workforce of India-August 2018- GnY Magazine issue

employed in the unorganized sector. So if they are not given the legal face or the sanctity their huge contribution towards the growth of the country will be exhausted. This will also curb the sense of insecurity and the uncertainty faced by the street vendors on every day basis.

1.2 STATEMENT OF PROBLEM

India got its political freedom in the year 1947 but unfortunately large number of population was yet to attain economic and social freedom because although we got political freedom from British rule in 1947 but we were still striven in the clutches social evils like discrimination on the basis of caste ,creed, place of birth and religion. Similarly, a large part of the population was living under abject poverty due to crumbled economic system. Though we got the right to choose our government through adult suffrage, but majority of the population was unaware of the fact that their ballot was largely striven by social and economic taboos. The per capita income was very low. During that era people of this country were mostly engaged in the activities of farming. The economy of the country was agricultural economy. The country was expanding in terms of population and the land holding capacity of the population was declining. During that time, people in order to sustain themselves started shifting their income sources from farming to other avenues like Street Vending.

India is known to be the largest democracy and the second largest populated country after People's Republic of China. People all around the world acknowledge this fact. However, India as a country is also very famous worldwide for its diverse, colorful and vibrant lifestyles of its people. People all around the world have always been very fascinated by the Indian culture, society and the way we function. The street vendors are an integral part to this, adding up all color and charm to the markets of every Indian city or town irrespective of its size and location. There will be hardly any market in India without these street vendors. They actually provide all the goods ranging from basic home essentials to fancy luxury items at a very affordable range. These street vendors are from marginalized sections and are mostly illiterate, and even if they are literate [3], they are not aware of their rights in true sense due to so many reasons. The Constitution of India has given rights and privileges to all its citizens, but these sections of the society are

3. A person aged seven and above, who can both read and write with understanding in any language, is treated as literate.(census 2011)

unaware of their true position in their own land.

The reason for this can be many like lack of education, position in the society (economically and social) backwardness. Due to this they do not have the courage to raise their voices against the authorities and the government against their exploitation.

Other very big and persistent problems faced these street vendors of every place is the extortion of money, bribing (called as 'Haafta') the Police, Municipal Authorities, PWD workers and shop keepers and also confiscation of their goods if they fail to pay that amount. There is always a middle man in every market, who collects the money from these street vendors and gives to these officials who further give a share of that to their higher officials. It's a vicious cycle of abuse of power and exploitation. These street vendors without complain gives this money ('Haafta') because by giving this illegal money they get the permission to carry out the business for earning livelihood in peace. They pay the money and escape the confiscation of the goods which if caught take months to get released and that too half of the goods. They are ignorant of the fact that the Government has made a law for them which will give them the legal sanctity and because of this they fall prey to these illegal activities. Thus, to ensure the legal rights of these underprivileged and exploited street vendors the implementation of this act in true spirit should be done.

1.3 OBJECTIVES OF THE STUDY:

The objectives of this said research are as following:

1. To study the social, political, cultural and economic challenges faced by the street vendors in the light of existing protective laws.

2. To study challenges of street vending in the age of smart city management.

3. To find loopholes in the existing laws, their implementation and make suitable remedial suggestions.

Social challenges: The people in rural areas, when cannot earn a proper and sufficient livelihood in their native places due to problems like lack of agricultural lands, flood, drought, lack of jobs in villages etc., they migrate to urban areas in search of earning livelihood. In the new place they start off with the profession of street vending as it offers them quick access to money. Say for

example one agricultural family whose farm land is of no more use for farming due to flood or drought will be very comfortable to carry out the role of vegetable vendor as he/she will have having in-depth know-how about these vegetables. Hence, they can easily settle in with the vegetable vending. However despite all these the street vendors faces the problem of social insecurities as they do not have a social standing in this new place running this new profession. They did not have respect back home also as their social standing was weak due to financial constraints and they fail to achieve the same here also as they are branded as street vendors, the unwanted lot of the society.

Political challenge: These street vendors are not congregated, they are scattered throughout the society and the nation. Due to this they do not have one single voice to demand their rights from the government. This disunity they lack united voice against the exploitation. Hence, government does not listen to them and take them seriously. Political demands are the rights of the street vendors (Policies, funds during crisis, welfare scheme, education for their children, urban housing scheme for them, quota for them (economical backwardness).

Cultural challenges: The story of immigration is very tragic. When they settle in a new place they go through numerous struggles. The person leaves his native place and moves to a new place with a few belongings and has to struggle to get adjusted in the new culture and that too in a very short span of time. He has to forget rather forced to forget all his cultural norms based on caste, creed, race, religion, festival, language, food, dresses and lifestyle. The story of every migrant who takes up the route to earn livelihood from migrating from one place to another is very excruciating when he moves from homogenous to heterogeneous cultures. All those children who move with their parents from rural life to urban life in search of earning livelihood forgets their very own culture and rituals. Basically, due to this shift from one life to another life uproots their social and cultural identity.

Economical challenges: These street vendors come from rural background to earn livelihood. They have very less entrepreneurial skills. As a result of this they lack in attaining proper market hold even in the small scale business. And to top it they have to face the high living cost of urban life as compared to their rural lifestyle. Another major problem causing factor for these street vendors are the lack of proper vending place to carry out their livelihood and as a result of this they fall prey to the extortion and bribery from every department of the government, right from

the Police to the Municipal bodies to the Public Welfare Department. They being from that poor stratum of the society which does not have any financial security does not even get any financial support from the banks because of lack of collateral means to pledge. Even if they get the loan from the bank, they are being uneducated gets the loans at a very high rate of interest. This drains them financially.

1.4 HYPOTHESIS OF THE STUDY:

It is hypothesized that there is a relation between vending protective laws such as the street vending act and its impact on the social, political, cultural and economic lives of street vendors. And to what extent it is adequate in transforming their lives.

1.5 SCOPE & LIMITIATIONS OF THE STUDY:

The said research proposal is a multi-disciplinary research proposal. It has legal and social prospects as it will be studying the implementation of the Street Vendors Act on the social, political, economic and cultural challenges faced by the Street Vendors along with City Management of the cities and towns accommodating the street vendors in a very planned and systematic way. Hence the following are the scopes of this research proposal:

(i) It can be used by the Government Authorities (Police, Municipal bodies, Public Welfare Departments, Town Planning Departments of the Municipal Bodies etc.) to understand the true nature and spirit of this street vendors act.

(ii) This study can be used by the Universities in the Departments of Social Welfare Schools to educate the students about the proper usage of laws in the social upliftment of the whole society.

(iii) This study will helpful to the Civil Societies and the Non-Government Organizations to understand the whole scenario of the working system of the authorities and educate the street vendors.

(iv) It can be used by the government authorities in their respective departments to hold workshops and educate those who actually work in the field like the Police constables,

inspectors and committee members of the municipal authorities about this act so that unnecessary harassment and exploitation faced by these street vendors can be stopped.

The limitations in this research proposal could be the below mentioned points:

(i) The Street Vendors are unaware of this act and hence they are ignorant about the rights and privileges conferred on them by the Constitution for their upliftment. Hence, they keep on paying the "Hafta" or the "protection money" to the Police and Municipal bodies. This research will include survey, interviews, questionnaires etc., to know the actual situation and the problems faced by these vendors but due to the fear of losing the ongoing or existing livelihood they will not cooperate to give the actual details and issues faced by them.

(ii) The government officials will be reluctant to answer any of the questions related to this research proposal because of the following reasons:

- It will expose their reluctance to implement the street vendor's law as it will increase their work pressure and most importantly will act as a major hindrance in bribes which they earn from these street vendors on daily basis which amounts to an unbelievably huge sum of money.
- It will show their incompetence and ignorance about the implementation of this act.
- The insensitive and biased attitude of these people towards the marginalized section of the street vendors and their upliftment.

CHAPTER- II

LITERATURE REVIEW

Review of Literature means the critical and effective reading of the published or unpublished literature. It is a thorough summary and critical analysis of the relevant literature on the topic being researched [4.] The Review of Literature is the backbone of the research topic as it helps to build up a whole research thesis based on it. According to J.Shaw, 1995, "the basic purpose of review of literature should be to explain how one piece of research builds on another." Similarly, for this research proposal the scholar has tried to go through various sources of published and unpublished works of other scholars to build up the basis of this thesis.

Prof. Sharit Bhowmik in his book *"Street Vendors in the Global Urban Economy"* published in 2010 was discussing "about the studies of street vendors from different parts of the developing world, highlighting the shared plights of street vendors as they try and ply their wares in what is often a hostile environment. The lack of tenurial rights, poor access to resources, a virtually non-existent legal frame work, lack of urbanization/unionization and collective bargaining has led to mounting insecurities for street vendors. The author is of the view that these street vendors are an integral part of the urban economics and contribute greatly to the quality of life, plying their trade with pride while operating under difficult circumstances."

Ms. Shalini Sinha and Sally Roever in their article *"India's National Policy on Urban Street Vendors"* which was published in the Policy Brief (Urban Policies N^0 2) April 2011 in Women in Informal Employment: Globalizing and Organizing (WEIGO), throws light on the emergence of street vending and the attempts taken by the Non Government Organizations (NGOs) to tackle the problems of the street vendors. This article also talks about the National Policy and the need for a new law for the street vendors.

4. Research Skill Development in Social Sciences, Communication and Management by Dr.B.S Nagi and Dr. A.M Khan

Ms. Binita Rai, Siliguri in her article *"Street Vendors, a neglected lot"* which was published in The Statesman, on 28th June 2019 is of the view that, "according to the Ministry of Housing and Urban Poverty Alleviation, there were more than 10 million street vendors in India. In India, poverty, predominant in rural areas, continues to push people from rural to urban areas. Paradoxically, different sections of the Indian Penal Code (IPC) and Police Act empower police to remove obstructions on the streets. The police and municipal authorities not only evict them from the streets by labeling them as hindrances, in some cases, their so-called "illegal status" is used to extort money from the vendors. In 2014, the Parliament of India passed a legislation called 'Street Vendors (Protection of Livelihood and Regulation of Street Vending) Act, 2014. Many civil society organizations such as Self Employed Women's Association (SEWA) and National Association of Street Vendors of India (NASVI) were instrumental in getting the landmark legislation drafted, hoping that it would ease the situation for the vendors. However, many cities have not implemented the act. In the few cities where the provisions of the act have been adopted, the executive has systematically undermined the well-meaning provisions, turning them instead into a tool to disenfranchise and harass the vendors themselves."

In the article "A Law for Street Vendors", the implementation of this act is crucially tested. The Supreme Court in 2010 order to the Delhi Municipal Corporation said that "hawking is a fundamental right. Article-19(6) of the Constitution says that there are two rights-one that of the commuters and the vendors must be harmonized and regulated. This article throws light on certain issues like the rift between the centre and the state while implementing the act as it's a central act and the municipalities fall under the state. It also talks about the rights of the urban poor to be secured but the not at the cost of city's layout. It emphasizes on the part of the implementation of this act as it will test how the much is benefitted from this act since its commencement."

India is a developing country and the issues related to informal sector and street vending are on a different parameter. There are many lacunas to be filled in to make the functioning of the society smooth and manageable. However, if we take the examples of the developed countries like United States of America then there are also lots of issues which cannot be ignored or overlooked. When we take the instance of the New York City, we see that those who wish to take up street vending then they have to take General Vending licenses from

the NYC Department of Consumer Affairs (DCA) [5]. The person who wishes to take up street vending has to take a token from the said department and pay the prescribed fees and has to wait for his turn to get the vending license to be issued. Due to this reason there are many people from the black community who carry out the street vending activities even without the issuance of proper license as there are many problems related to it. Firstly, the number of licenses issued is only 853, hiking of the renewal fees, restricting the vending locations, prescribing modes of operation etc. Regina Austin in her article, "An Honest Living: Street Vendors, Municipal Regulation, and the Black Public Sphere" has mentioned that "for these black people breaking the law is not the way of life but the only way of life. In the many cities of USA like New York, Washington DC and Philadelphia most of these people from the black community are carrying out street vending without the vending license, and when they are being asked about the legality o their business as its in violation of the rules and regulations of the authorities, then they are of the opinion that its "an honest living and they should be allowed to pursue legally". In such developed countries like USA also the attitude of the authorities (the legislators and the municipalities) towards the street vendors are unfavorable."

India being one of the fast developing countries of the world is also facing lots of transition in the societies and the culture related to it. This has led to many street vendors knocking the door of courts for justice showing their firm belief in the judiciary. In this light, the Supreme Court of India in the matter of "*Sodan Singh V. NDMC & Ors* gave judgment in continuation of two earlier judgments rendered in this very case, which is a public interest case concerning the hawkers, squatters, etc, in the public streets in the New Delhi Municipal Committee area. The first of the judgments was rendered by a Connotation Bench on 30.8.1989 in *Sodan Singh V. N.D.M.C, 1989 (4) SCC 155* and the second was rendered on 13.3.1992 by a three Judge Bench in *Sodan Singh Vs. N.D.M.C 1992 (2) SCC*. The government has often neglected the issue, and very few vendors have licenses that allow them to trade. With their work labeled 'illegal', vendors are often harassed and extorted by authorities, local goons, licensed shop keepers and even the 'pradhans' (leaders) among the vendors."

5. https://www1.nyc.gov/nycbusiness/description/general-vendor-license <last visited 5.5.2020>

The Supreme Court of India in the case of "*Sodan Singh V. New Delhi Municipal Committee* in 1989, ordered that street trading was a fundamental right under Article 19(1)(g) of the Constitution. However, traders cannot select the area for street trading by themselves, as it might obstruct the right of other citizens to move freely under Article 19(1)(d). So it is up to the state to designate the areas for street trading. The apex court order also said that the state's inaction would negate citizens' fundamental right to trade."

On 08.10.2010 the Supreme Court of India decided *Gainda Ram &ors. V. MCD & Ors* this above mentioned case. In this case the Supreme Court of India directed the appropriate government to enact a law by June 2011. The case of *Gainda Ram & Ors. V. MCD and Ors*, concerned the legal framework for regulating hawking in Delhi. The judgment lays out "the background to this case by stating that the regulation of hawking in Delhi had been proceeding under directions issued by the Supreme Court in previous cases, and was being implemented by municipal authorities such as the New Delhi Municipal Corporation (NDMC). The NDMC and the MCD have also framed schemes to regulate hawkers as per a policy of the government framed in 2004. However, since these schemes were not laid before Parliament, the Court held that these schemes cannot be called 'law' or drafted under the authority of any law. The Court also stated that there is an urgent need to enact a legislation to regulate hawking, and the rights of street vendors. It referred to a bill which had been framed by the government, and stated that since the government has already taken the first step in the legislative process by drafting a bill, the legislative process should be completed. On the basis of this, and other reasons, it directed the government to enact a law by June 2011."

Hon'ble Justice G.S Singhvi and Justice Gopala Gowda of the Hon'ble Supreme Court of India on 09.09.2013 in the matter Maharastra Ekta Hawkers Union & ors. V. Municipal Corporation, Greater Mumbai & ors., decided the said matter and observed that "All the existing street vendors / hawkers operating across the country shall be allowed to operate till the exercise of registration and creation of vending / hawking zones is completed in terms of the 2009 Policy. Once that exercise is completed, they shall be entitled to operate only in accordance with the orders/directions of the concerned Town Vending Committee." "This judgment has allowed all the street vendors of the country to carry on with their vending activities throughout the country till the proper survey is carried out and till all this process is

over. This judgment has been very instrumental in fighting the atrocities against the street vendors in the hands of the authorities."

In another matter "*National Association of Street Vendors of India (NASVI), & ors. V. South Delhi Municipal Corporation & ors."* the Hon'ble division bench of the Delhi High Court referring to judgment dated 22.04.2015 held that,"…We have also directed on the previous occasion that if any street vendors have been evicted from the areas referred to therein, they shall be permitted to return. Despite this, some street vendors have been evicted. The learned counsel for the petitioner has shown us some documents which indicate that the articles of sale of the street vendors have been confiscated and, thus, the street vendors have made applications for return/release of the same even in December, 2014 after the passing of our previous order. An affidavit shall be filed along with the documents. The directions given by us on the previous occasion is reiterated. Any non-compliance will be looked at very seriously…" This order clearly shows that the court is of the view that the street vendors are not to be evicted from their vending sites in accordance with the Street Vendors Act.

In another writ petition titled *Vyapari Kalyan Mandal Main Pushpa & anr. V South Delhi Municipal Corporation & ors*., Hon'ble Justice G.S Sistani and Hon'ble Justice Vinod Goel gave judgment on this case on 31.08.2018, allowing the said "petition with the directions the there should not be any street vending carried out in the area mentioned in the said petition until the Town Vending Committee comes into operation and finally decides whether the area is to be a vending zone or no-vending zone."

The scholar after reviewing the above mentioned research articles, books, newspaper articles and court cases is of the view that in a country like India where informal sector contributes a major portion to the economic growth, yet it is still unacknowledged and unaccounted. Hence, there was a much need for the act. The Street Vendors Act came into existence in the year 2014 making India the only country worldwide to have an act exclusively for street vendors. Yet, there are numerous unanswered aspects of the rights and privileges of these street vendors. Even in the developed countries like USA the rights of these street vendors are not looked with much of humane attitude by the authorities. From this we can infer that there is a major lacuna in the whole functioning of the society and the bureaucratic system. Everyone

is mentioning the plights of the street vendors in exercising their constitutional rights conferred by the Constitution of the India. Most of the scholars are talking about the problems of these street vendors but rarely someone is talking about the solutions. Therefore, it is pertinent to mention here that through this research the scholar is of the view that the solution lies in the Street Vending Act itself. This research is based on the holistic interpretation of the act finding the limitations and the deficiencies in the act itself and thereby if the act implemented in true and full spirit then it will transform the lives of approximately 10 million street vendors who are wondering in the streets of India. The scholar has also tried to draw a link between street vending activities and the dream project of Smart City Management of our Hon'ble Prime Minister which cannot be accomplished unless the problem of chaotic and unmanageable street vending activities are plugged in.

CHAPTER- III

RESEARCH DESIGN

A research design is the "blue print" of the research proposal or the topic. It can be compared to the architectural lay out of the construction of a new building. The research design to be followed in this research proposal will be the following:

(a) Descriptive Research Design: The descriptive research design means to describe something i.e., to describe the reasons and to describe the relationship of two variables. This will find out the existing problems faced by the street vendors while carrying out the vending activities. Furthermore, this research will also focus on the challenges being faced by Government authorities in the implementation of Street Vendors Act and will suggest steps for better implementation and the Government officials will address the issues they face while implementing the street vendors act.

(b) Exploratory Research Design: This research design will explore how street vending act will improve the social, political, cultural and economic life of the street vendors and will lead to better city management and fulfillment of Smart City Dream Project.

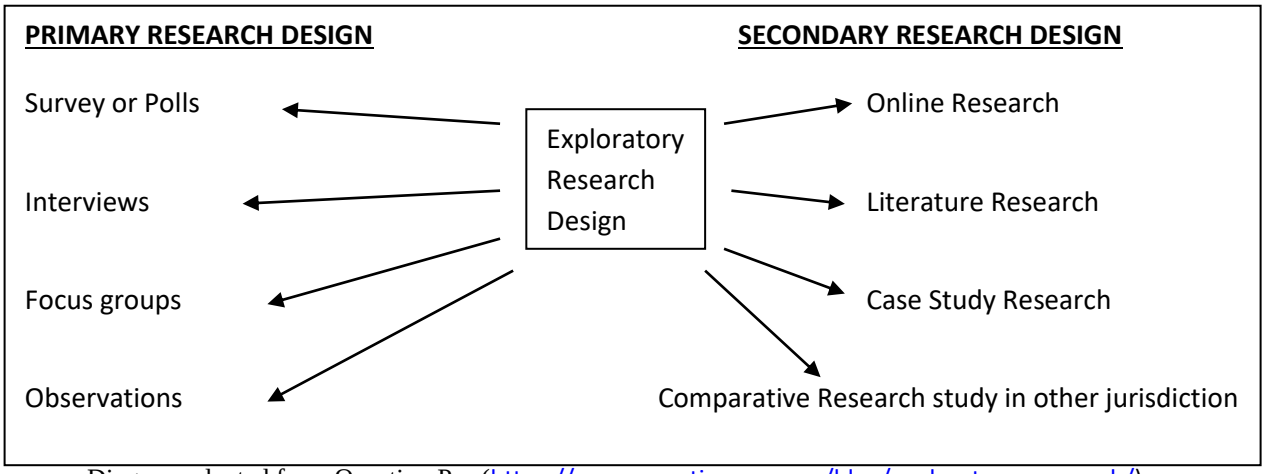

Diagram adapted from Question Pro (https://www.questionpro.com/blog/exploratory- research/)

This exploratory Research Design which is useful to investigate a problem which is not clearly defined or explained and where not much past or previous research data is available.

3.1 RESEARCH METHODOLOGY:

"Research is a systematic enquiry aimed at providing information to solve managerial problems."[6] The research methodology has three parts namely sampling, tools of data collection and tools of data analysis. For carrying out this research the methodology used will be as under:

(a) Sampling.

   i. Who are the respondents (who gave us the data)
   ii. Number of respondents (justify the number also)
   iii. Method of sampling (to select the respondents)

(b) Tools of data collection.

   i. Random sampling method.
   ii. Questionnaires for the street vendors and the authorities as well.
   iii. Interviews of the street vendors and the officials who are responsible for the implementation of this act.
   iv. Survey methods.

The target population of the street vendors and the government authorities will be from Delhi and NCR (National Capital Region). The reason for choosing these areas is that the concentration of street vendors will be thicker as it is a completely urban area. The street vendors are mostly found in these urban areas as the scope of finding livelihood is more in big cities as compared to small cities. The Street Vendors Act is in many folds, one who is responsible to implement it (the higher authorities or the officials), another, who will abide by the rules and regulations of the act (the field officers or the lower rank officials) and lastly who will be benefitted the most from this act (the street vendors). Thus, the questionnaires for the interviews and for survey will be divergent in nature as it will be different from person to person depending on his role and position in the proper implementation of this act.

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6. (Cooper and Schindler, 2003). Author William G. Zikmund Dryden press 2000

Here the target population for data collection will be the street vendors themselves, and the government authorities who implement it. The following are the few open and closed ended **questions for the street vendors** to be asked during the random sample collection (tentative questionnaire):

1. Name.
2. Sex.
3. Age.
4. Vending item.
5. Market or the locality.
6. Place of origin.
7. Reason for street vending.
8. Reason for choosing the vending site/location.
9. Challenges faced from the Government Authorities (Municipal, PWDs and Police) while vending.
10. Do you have any union of your own?
11. What is your education qualification?
12. Do you pay bribe or the "HAFTA"? To whom and how much? Is it daily/weekly or monthly?
13. Do you pay protection money to the market association?
14. Do you know your rights given by the Constitution of the India?
15. Do you know about the STREET VENDORS ACT?
16. Is this street vendors act implemented in your municipality area?
17. Do you know what is a TVC and is Town Vending Committee (TVC) formed in your respective area?
18. Are you a member of TVC?
19. Have you been to court for any matter of yours related to Street Vending?
20. Has the Government authorities implied the court orders?
21. What does the market association says or has an opinion about your community of street vendors?

22. Do you think your profession of street vending as legal or illegal and why?
23. Do you have any document to prove since when you are vending?
24. How does your life be socially, politically, economically and culturally be affected if this street vendors act is implemented?
25. Do you think you should be given some sort of license for vending?
26. Will you welcome the Town Vending Committee's decision for relocation of your livelihood?
27. How much do you earn per day and per month? How much do you save?
28. Do you have any debts in the market or village or with the bank?
29. Do you have your voting rights in the place where you carry out vending and live?
30. Do your children go to school?
31. What is the attitude of these government authorities towards you and your profession?
32. What is the attitude of the public towards you?
33. Did you take permission from anyone before starting business here in this place?

Further the following are the **questions for the Government Authorities** (Municipal bodies, Police Department, Public Welfare Department, Traffic Police Department). These questions are for the officer ranks.

1. Name.
2. Rank or position.
3. Department.
4. Are you aware about the Street Vendors (Protection of Livelihood and Regulation of Street Vending) Act, 2014?
5. Is it implemented in your concerned area?
6. Are you aware of the Supreme Court of India's guidelines on these street vendors and the act?
7. Are the rules and schemes under the section 36 and section 38 of the street vendors act implemented? Can you please provide a copy of the same?
8. Who is responsible to get the act implemented in true spirit?

9. Has the grievance redressal cell been established as mentioned in the act under section?
10. On what basis the 40% representation of the street vendors in the TVC been calculated and how many women street vendors are been represented in the TVC?
11. What process is being followed to choose the members of the TVC and on what intervals these meetings are conducted?
12. What is the status of the survey of these street vendors to be carried out?
13. How many street vendors are there in your area?
14. Which places have been short listed for declaring as the vending zones in your area?
15. Does the Town planning department, environment department, traffic police, Police work together (Inter-departmental meetings) to implement the act and sort out the problems faced by the street vendors and the public at large.

The **lower rank officials** will be interviewed with these questions:

1. Name.
2. Rank or position.
3. Department.
4. Are you aware of the street vendors Act?
5. Are you aware of rights conferred to these street vendors by the law of this land?
6. Is there any TVC formed in the area?
7. On whose orders do you confiscate the goods of these vendors and chase them away?
8. Are you aware about the Supreme Court of India's order about the Street Vendors Act?
9. Are you people briefed by the officials or the higher authorities in any sort of meeting or workshop about the street vendors act and the court orders regarding this Street Vendors Act?
10. Who keeps a tab on how much goods are confiscated, deposited and returned to these vendors?

CHAPTER -IV

SUMMARY AND CONCLUSION

With the passage of the street vendors act in the 2014 the age old profession of street vending got recognition in the eyes of the law as legal. However, due to the pessimistic approach of the government and the authorities the street vendors are still struggling to achieve their desired place in social, political and economic system.

This research proposal on the street vendors about how the implementation of The Street Vendors (Protection of Livelihood and Regulation of Street Vending) Act, 2014 will improve their social, economical, political and cultural life tremendously along with the better smart city management. The government departments will also be enabled to handle these street vendors in a more effective along with managing the city in a smarter manner. The street vendors will get their due share of respect and the dignity in the society to carry out their livelihood.

Therefore, if we analyze our demographic composition, approximately 10 million people consist of street vendors in India. Not only this, they constitute 82 % of GDP in our economy. Similarly, they constitute quite a sizeable area of living space in the mega cities like Mumbai, Delhi. Further, more they also constitute a large amount of unorganized population. But the unfortunately despite having alarming data and figures of these people no sound legal system exist for the protection and welfare of these people. And these facts and figures became clearly evident when the waves of migration took place in the recent pandemic of Corona virus. The cities got deserted as if the blood has been sucked out from the veins of the body. The nation did not witness such a mass exodus from one place to another even at the time of partition of India. So would we still deny this fact that these marginalized people of the un-organized sectors are not the burden on the cities infrastructure and it would be folly to admit that the growth of our economy cannot be revived unless and until these people would be allocated respectful and deserved place of their own not only in the cities of which they constitute the flesh and blood but also a rightful place in the smooth functioning of our economic system. Therefore as I have said in the beginning if you want to fulfill the dreams of our forefather and want to achieve the social and economic justice then a sound law needs to be formulated for street vendors, otherwise a

freedom attained merely on the lines of political basis is of no use without social and economic constituents along with it.

Therefore, we cannot deny this fact that life is being lived at different levels in India and unfortunately many people sitting at the top level of social ladder wants to see the rest of the world with the same screen.

This law will transform India into a new world where we can say with full confidence that our democracy is for the people, by the people and of the people. The objective of this law would be to transform these street vendors from maligned word of street vendors to self sustaining and self reliant entrepreneurs who are more daring and risk taking because they don't have any banking support and they start their unit from whatever savings they have in their lives. Referring to the statement made by Ms. Ela Bhatt, originator of SEWA and she is one of the key architects of the national movement, "*Basically what we need is a change of perception, so that businesses and planners see vendors as entrepreneurs and vending as legitimate employment. After all, neither industry nor government is able to provide jobs to the citizens …. If we are able to increase our organized strength, make strategic alliances and link up with other groups like planners and academicians, we will be in a better position to dialogue with the political structures. We must make politicians see us not just as vote banks, but as contributors to a new India."*

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1. Name of the Scholar : Sampriti Phukan malik
2. Department : Faculty of Law, MRU
3. Date of Registration : 18-01-2020
4. Enrollment No : 2K20-PFL-001
5. Name of the Supervisor : Dr. Somdutt Bhardwaj
6. Name of the Co-Supervisor : Dr Tarundeep Kaur
7. Research Area : Law

8. Comments:

The DRC members had long discussions about various aspects of the research area. Suitable changes were suggested by different members in proposed title. The DRC members finally approved the title as : **A SOCIO LEGAL STUDY REGARDING PROTECTIVE LAWS FOR STREET VENDORS**

Chairperson DRC
Dr. Versha Vahini
15/10/2022

DRC Member(s)

This has the approval of all the DRC members- Prof. Badruddin, Prof. Jose P. Verghese, Mr. Ravikant Vasudev, Dr. Somdutt Bhardwaj, Dr. Seema Gupta and Dr. Tarundeep Kaur.

16/10/2022

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